

**BURSOR & FISHER, P.A.**  
L. Timothy Fisher (State Bar No. 191626)  
Joshua B. Glatt (State Bar No. 354064)  
1990 North California Blvd., 9th Floor  
Walnut Creek, CA 94596  
Telephone: (925) 300-4455  
Facsimile: (925) 407-2700  
E-mail: [ltfisher@bursor.com](mailto:ltfisher@bursor.com)  
[jglatt@bursor.com](mailto:jglatt@bursor.com)

**GUCOVSCHI ROZENSHTEYN, PLLC.**  
Adrian Gucovschi (*pro hac vice* forthcoming)  
Benjamin Rozenshteyn (*pro hac vice* forthcoming)  
140 Broadway, Suite 4667  
New York, NY 10005  
Telephone: (212) 884-4230  
Facsimile: (212) 884-4230  
E-mail: [adrian@gr-firm.com](mailto:adrian@gr-firm.com)  
[ben@gr-firm.com](mailto:ben@gr-firm.com)

*Attorneys for Plaintiff Kristin Cobbs*

[Additional counsel listed on Signature Page]

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

In re VNGR BEVERAGE, LLC LITIGATION

Case No. 4:24-cv-03229-HSG

**CLASS ACTION**

**JOINT SCHEDULING STIPULATION  
AND ORDER AS MODIFIED TO  
CONSOLIDATE RELATED CASE,  
SET DEADLINE FOR AMENDING  
COMPLAINT, AMEND BRIEFING  
SCHEDULE, AND CONTINUE CASE  
MANAGEMENT CONFERENCE**

Dept: Courtroom 2  
Judge: Judge Haywood S. Gilliam, Jr.

MEGAN WHEELER, on behalf of herself and all others similarly situated,

**Plaintiff.**

V.

VNGR BEVERAGE, LLC

**Defendant.**

**JOINT SCHEDULING STIPULATION  
CASE NO. 4:24-CV-03229-HSG**

1 Pursuant to Civil Local Rules 16-2 and 7-12, Plaintiffs Kristin Cobbs, Carol Lesh, and  
 2 Sarah Coleman (“Plaintiffs”) and Defendant VNGR Beverage, LLC d/b/a Poppi (“Defendant” or  
 3 “Poppi,” together with “Plaintiffs,” the “Parties”) hereby jointly stipulate and agree as follows:

4 WHEREAS, on May 29, 2024, a putative class action was filed in this Court against Poppi  
 5 alleging violations of consumer protection laws, captioned *Cobbs v. VNGR Beverage, LLC*, Case  
 6 No. 4:24-cv-03229-HSG (the “*Cobbs Action*”);

7 WHEREAS, on May 29, 2024, a substantially similar putative class action, involving the  
 8 same questions of law and fact, was filed in the Northern District of California, captioned *Lesh, et*  
 9 *al. v. VNGR Beverage, LLC*, Case No. 3:24-cv-03612-SK (the “*Lesh Action*”);

10 WHEREAS, on June 25 and 27, 2024, the Court entered Orders relating (ECF No. 18) and  
 11 then consolidating (ECF No. 22) the *Lesh Action* to the *Cobbs Action* (recaptioned as “*In re VNGR*  
 12 *Beverage LLC, Litigation*”) and set deadlines for filing a consolidated amended complaint and  
 13 related responsive filings;

14 WHEREAS, on July 19, 2024, a third substantially similar putative class action, involving  
 15 the same questions of law and fact, was filed in the Northern District of California, captioned  
 16 *Megan Wheeler v. VNGR Beverage LLC*, Case No. 4:24-cv-04396-HSG (the “*Wheeler Action*”);

17 WHEREAS, on July 23, 2024, plaintiffs in the *Wheeler Action* filed an administrative  
 18 motion to relate the *Wheeler Action* to the *In re VNGR Beverage, LLC Litigation Action* pursuant  
 19 to Civil Local Rules 3-12(a) and 7-11 (ECF No. 28) because these actions involve identical  
 20 questions of law and fact and the same conduct by the same Defendant;

21 WHEREAS, on July 25, 2024, Plaintiffs in the *Cobbs* and *Lesh Actions* filed a  
 22 Consolidated Amended Complaint;

23 WHEREAS, on August 9, 2024, the Court entered a Related Case Order (ECF No. 31)  
 24 relating the *Wheeler Action* to the *In re VNGR Beverage LLC, Litigation Action*;

25 WHEREAS, cases pending before the same judge may be consolidated under Federal Rule  
 26 of Civil Procedure 42(a) if the actions involve a common question of law or fact;

27 WHEREAS, to advance the interests of judicial economy and efficiency, prevent  
 28 duplication, and preserve the Court’s and Parties’ Resources, the Parties, therefore, respectfully

1 submit that consolidation of the *Wheeler Action* with the *In re VNGR Beverage LLC, Litigation*  
2 Action is appropriate;

3 WHEREAS, the Parties agree that if the cases are consolidated, Plaintiffs will accordingly  
4 file a consolidated amended complaint for all three consolidated Actions;

5 WHEREAS, the Parties agree that Defendant need not answer, move, or otherwise respond  
6 to the currently filed complaints in the *Cobbs Action*, *Lesh Action*, and *Wheeler Action*, and should  
7 instead respond to the consolidated amended complaint; and

8 WHEREAS, an initial case management conference is presently set in the *Wheeler action*  
9 for October 29, 2024 at 2:00 p.m., and Defendant's Answer to or Motion to Dismiss the  
10 Consolidated Complaint is due September 9, 2024.

11 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the Parties  
12 hereto, through their undersigned counsel, as follows:

13 1. Pursuant to Civil L.R. 3-12(f)(3), the case originally captioned *Megan Wheeler v.*  
14 *VNGR Beverage LLC*, Case No. 4:24-cv-04396-HSG is hereby consolidated with the case  
15 captioned *In re VNGR Beverage, LLC Litigation*, Case No. 4:24-cv-03229-HSG.

16 2. Pursuant to Federal Rule of Civil Procedure Rule 42(a), the above-captioned actions  
17 shall be consolidated for all purposes, including, without limitation, discovery, pretrial  
18 proceedings, and trial (the "Consolidated Action").

19 3. Every pleading filed in the Consolidated Action shall be filed under Case No. 4:24-  
20 cv-03229-HSG and shall bear the *In re VNGR Beverage, LLC Litigation* caption.

21 4. Pursuant to FRCP 23(g) and subject to the Court's approval, Burson & Fisher, P.A.,  
22 and Gutride Safier LLP will serve as co-lead interim class counsel in the consolidated action.

23 5. Plaintiffs shall file a consolidated amended complaint by August 20, 2024.

24 6. Defendant need not answer, move, or otherwise respond to the currently pending  
25 complaints in the *Wheeler* or *In re VNGR Beverage, LLC Litigation* Actions.

26 7. Defendant shall respond to the to-be-filed second consolidated amended complaint  
27 by September 23, 2024.

28 8. If Defendant ultimately files a motion to dismiss the second consolidated amended

1 complaint, Plaintiffs will file an opposition to the motion to dismiss by October 21, 2024, and  
2 Defendant will file a reply to the opposition by November 12, 2024.

3 9. The Court may reset the initial case management conference in *Wheeler*, currently  
4 scheduled for October 29, 2024 at 2:00 p.m., to a later date set by the Court.

5 10. The Parties are not waiving any rights, claims, or defenses of any kind except as  
6 expressly stated herein, and the Parties reserve the right to seek further extensions of time as  
7 circumstances may warrant, subject to the Court's approval.

8  
9 Dated: August 20, 2024

Respectfully submitted,

10 **BURSOR & FISHER, P.A.**

11  
12 By: /s/ L. Timothy Fisher

13 L. Timothy Fisher (State Bar No. 191626)  
14 Joshua B. Glatt (State Bar No. 354064)  
15 1990 North California Blvd., Suite 940  
Walnut Creek, CA 94596  
Telephone: (925) 300-4455  
Facsimile: (925) 407-2700  
E-mail: ltfisher@bursor.com  
jglatt@bursor.com

16  
17 Dated: August 20, 2024

**GUCOVSCHI ROZENSHTEYN, PLLC.**

18 By: /s/ Adrian Gucovschi

19 Adrian Gucovschi (*pro hac vice* forthcoming)  
20 Benjamin Rozenshteyn (*pro hac vice* forthcoming)  
140 Broadway, Suite 4667  
New York, NY 10005  
Telephone: (212) 884-4230  
Facsimile: (212) 884-4230  
E-mail: adrian@gr-firm.com  
ben@gr-firm.com

21  
22  
23  
24 Dated: August 20, 2024

*Attorneys for Plaintiff Kristin Cobbs*

25 **GUTRIDE SAFIER LLP**

26 By: /s/ Anthony J. Patek

27 Seth A. Safier (State Bar No. 197427)  
28 Marie A. McCrary (State Bar No. 262670)

Anthony J. Patek (State Bar No. 228964)  
100 Pine Street, Suite 1250  
San Francisco, CA 94111  
E-mail: [seth@gutridesafier.com](mailto:seth@gutridesafier.com)  
[marie@gutridesafier.com](mailto:marie@gutridesafier.com)  
[anthony@gutridesafier.com](mailto:anthony@gutridesafier.com)

*Attorneys for Plaintiffs Carol Lesh and  
Sarah Coleman*

Dated: August 20, 2024

KAPLAN FOX & KILSHEIMER LLP

By: /s/ Matthew B. George

Laurence D. King (SBN 206423)  
Matthew B. George (SBN 239322)  
Blair E. Reed (SBN 316791)  
Clarissa R. Olivares (SBN 343455)  
1999 Harrison Street, Suite 1560  
Oakland, California 94612  
Telephone: (415) 772-4700  
Facsimile: (415) 772-4709  
E-mail: lking@kaplanfox.com  
mgeorge@kaplanfox.com  
breed@kaplanfox.com  
colivares@kaplanfox.com

*Attorneys for Plaintiff Megan Wheeler*

DATED: August 20, 2024

COOLEY LLP

By: /s/ Michelle C. Doolin

Michelle C. Doolin  
MEGAN L. DONOHUE (266147)  
(mdonohue@cooley.com)  
VIVIENNE A. PISMAROV (345611)  
(vpismarov@cooley.com)  
10265 Science Center Drive  
San Diego, CA 92121-1117  
Telephone: (858) 550-6000  
Facsimile: (858) 550-6420

DARINA A. SHTRAKHMAN (324109)  
[dshtrakhman@cooley.com](mailto:dshtrakhman@cooley.com)  
3 Embarcadero Center, 20<sup>th</sup> Floor  
San Francisco, CA 94111  
Telephone: (415) 693-2000  
Facsimile: (415) 693-2222

*Attorneys for Defendant  
VNGR BEVERAGE, LLC d/b/a POPPI*

## **SIGNATURE ATTESTATION**

I, L. Timothy Fisher, as the ECF user and filer of this document, attest pursuant to N.D. Cal. L.R. 5(i)(3) that each of the other signatories have concurred in the filing of the document.

/s/ L. Timothy Fisher

L. Timothy Fisher

## **ORDER AS MODIFIED**

Having considered the parties' Joint Stipulation and good cause appearing, the Court hereby orders as follows:

1. Pursuant to Civil L.R. 3-12(f)(3), the case originally captioned *Megan Wheeler v. VNGR Beverage LLC*, Case No. 4:24-cv-04396-HSG is hereby consolidated with the case captioned *In re VNGR Beverage, LLC Litigation*, Case No. 4:24-cv-03229-HSG.

2. Pursuant to Federal Rule of Civil Procedure Rule 42(a), the above-captioned actions shall be consolidated for all purposes, including, without limitation, discovery, pretrial proceedings, and trial (the “Consolidated Action”).

3. Every pleading filed in the Consolidated Action shall be filed under Case No. 4:24-cv-03229-HSG and shall bear the *In re VNGR Beverage, LLC Litigation* caption.

4. Pursuant to FRCP 23(g), Burson & Fisher, P.A., and Gutride Safier LLP will serve as co-lead interim class counsel in the consolidated action.

5. Plaintiffs shall file a consolidated amended complaint by August 20, 2024.

6. Defendant need not answer, move, or otherwise respond to the currently pending complaints in the *Wheeler* or *In re VNGR Beverage, LLC Litigation* Actions.

7. Defendant shall respond to the second consolidated amended complaint by September 23, 2024.

8. If Defendant ultimately files a motion to dismiss the Second Consolidated Amended Complaint, Plaintiffs will file an opposition to the motion to dismiss by October 21, 2024, and Defendant will file a reply to the opposition by November 12, 2024.

9. The Parties are not waiving any rights, claims, or defenses of any kind except as expressly stated herein, and the Parties reserve the right to seek further extensions of time as circumstances may warrant, subject to the Court's approval.

10. The Clerk is directed to administratively close the later-filed civil action, Case No. 24-cv-04396-HSG.

11

1           **IT IS SO ORDERED.**  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Date: 8/21/2024

  
Hon. Judge Haywood S. Gilliam, Jr.  
United States District Court Judge